

EXPLANATION OF

04

فُرُوقُ الْفِقْهِ

IBN AL-MIBRAD



SHAYKH AHMAD MUSĀ JIBRĪL

May Allah (سبحانه و تعلى) ease the affairs of the Shaykh, preserve him, love him, and safeguard him from all harm. May He (سبحانه و تعلى) keep him sincere and continue to shower his life and da'wah with His blessings and allow the Muslims to benefit from his da'wah until the Day of Judgement. May Allah make all his efforts weigh heavy on his scales, and make it an immense Sadaqah Jāriyah for him, his parents, and his family. May Allah facilitate the completion of this Sharh, and shower him with His aid always and forever.



[SH AHMAD JIBRIL](#)



[SHAYKH AHMAD JIBRIL](#)



[T.ME/AHMAD_MUSA_JIBRIL](#)



[SHAYKH AHMAD MUSĀ JIBRĪL](#)



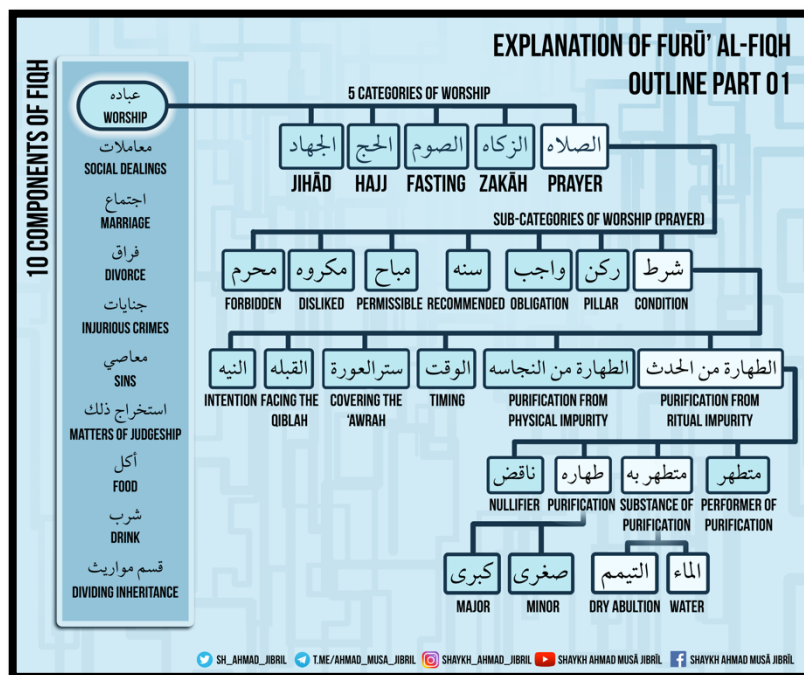
[SHAYKH AHMAD MUSĀ JIBRĪL](#)

بسم الله الرحمن الرحيم

الحمد لله حمداً كثيراً كما أمر، و أشهد أن لا إله الا الله وحده لا شريك له إرغاماً لمن جحد وكفر، و أشهد أن سيدنا و نبينا محمداً عبده و رسوله سيد الخلائق والبشر، صلى الله عليه و على أصحابه ما اتّصلت عينٌ بنظر و سمعت أُذنٌ بخبير، أمّا بعد

In the name of Allah, the Most Beneficent, the Most Merciful. All praise is due to Allah, an abundance of praise as He ordained. And I testify that there is no god worthy of worship but Allah Alone with no partner, in defiance of those who recanted and disbelieved. And I testify that our master and Prophet Muhammad is His slave and Messenger, the master of those created and mankind. May the peace and blessings of Allah be upon him and his companions, those whose eyes contacted [him] with sight, and [whose] ear heard [his] message, as for what follows:

We briefly went over the major headings of the book – which we refer to as the index of the book – the ten headings or chapters. The first of those chapters was the chapter on 'Ibadāt, which is matters pertaining to worship. The 'Ibadāt branched off into five categories. The first of them was As-Salāh – it branched off into seven sub-categories. As-Salāh's sub-categories, the first of them was Ash-Shurūt (conditions). That branched off, Ash-Shurūt branched off into six categories. The first of the six categories of Shurūt As-Salāh is Tahārah. That branched off into three or four – depending on how you take it from what we mentioned at the end of last week.



So the first of those is the performer of the purification.

* أَمَّا الْمُتَطَهِّرُ .. فَهُوَ الْمُكَلَّفُ الْخَالِي عَنْ مَانِعٍ حِسِّيٍّ، أَوْ شَرْعِيٍّ.

This is where we left off last week. Today we will start out 'Inshā'Allah with the substance of the Tahārah used. And after that the third one is, purification itself, and then after that is what we referred to as the nullifier. A student of 'Ilm would follow the outline, every sentence by sentence, and follow along with that, but someone short of that can also follow along with us on the concept and matters that we take pertaining to Fiqh, and will benefit from that as well 'Inshā'Allah Ta'ālā.

So the second matter under Tahārah is the substance used.

* وَأَمَّا الْمُتَطَهِّرُ بِهِ .. فَالْمَاءُ الطَّهُّورُ .. أَوْ التُّرَابُ عِنْدَ عَدَمِهِ، أَوْ ضَرَرٌ فِي اسْتِعْمَالِهِ.

He mentioned two substances used for purification, the water, and the soil.

* وَأَمَّا الْمُتَطَهِّرُ بِهِ .. فَالْمَاءُ الطَّهُّورُ .. أَوْ التُّرَابُ عِنْدَ عَدَمِهِ،

The substance used for purification is water and soil when it's not available – when water is not available. He also added,

أَوْ ضَرَرٌ فِي اسْتِعْمَالِهِ.

Or if using the water will cause harm or injury to that individual. And the author said:

لَمَاءُ الطَّهُّورِ

Purifying water. And he specified purifying water to distinguish from other types of water and other types of liquid. Because not every type of water is used for purification. And this leads us to the types of water from a Fiqh perspective. First type of water is the:

طَاهِرٌ غَيْرٌ مُطَهِّرٌ

The pure, but not purifying water.

It's pure in itself, but it can't be used for Wudū' and Ghusl. It's water that had one of its features or qualities changed, which is either the color or taste or smell. One can't make Wudū' with it. It's like mixing coffee with water – what does that water end

up being? Coffee. Tea with water becomes tea, milk and water is milk, and juice and water – same thing. Water that's combined with another liquid or substance that changes its color, smell, or taste – it's considered pure, but you can't use it for purification – we consume it – so that means it's pure. But it's not suitable for Wudū' and Ghusl. It's like rose water (ماء الورد), even though some in the Hanbali opinion adopt that rose water can be used for Wudū', but the overall Madhhab does not adopt that opinion. Why? Because one of its features has changed.

The second type of water from a Fiqh perspective is:

طاهر مطهر

Pure and purifying water.

And that's water in its original status and features. That hasn't changed. Water that you can use to purify yourself with, and Wudū' and Ghusl. And this is what the author referred to when he said Al-Mā'u At-Tahūr (الماء الطهور), and it's like rainwater. Allah (سبحانه و تعالى) said about it:

وَأَنْزَلْنَا مِنَ السَّمَاءِ مَاءً طَهُورًا

We sent down from the heavens purifying water (25:48)

And He (سبحانه و تعالى) also said:

وَيُنْزِلُ عَلَيْكُمْ مِنَ السَّمَاءِ مَاءً لِيُطَهِّرَكُمْ بِهِ

(He caused water (rain) to descend on you from the sky, to clean you thereby... 8:11)

Like that, is sea water. The Messenger (صلى الله عليه و سلم) said regarding sea water,

هو الطَّهَّور ماؤه، الحِلُّ ميتته

"Its water is purifying and its dead (animals) are lawful (to eat)."

Its water is purifying, as [mentioned] in Sunan At-Tirmidhi. And the Messenger (صلى الله عليه و سلم) made Wudū' from Zamzam water. So that means the well water is also

pure. This category of water is unlike the first, the features haven't changed – the color, the smell, and taste are intact. But some 'Ulamā' made an exception to that. They said:

المختلط بطاهرٍ يشقُّ صَوْنُ الماءِ عنه

The exception says, the water may be mixed with something pure that's difficult to be separated from it or avoided from it.

And there's even an 'Ijmā' (a consensus) on the purity of the water with such an exception, and that 'Ijmā' is narrated by Ibn Rushd and Ibn Qudāmah and Ibn Tayimiyyah. What do the 'Ulamā' mean by that exception? You [can] better understand it with an example. Sometimes you got water, and you got grass growing within that water. And that grass may change one of the features within that water. Or – in this season, the leaves fall within that water, and they change some of the features of the water. It's still referred to as water, and those substances are practically unavoidable. So it's still considered pure and purifying according to the 'Ulamā'. It's like they said a little bit of Najāsah doesn't make the water impure.

And the reason we would mention an issue like this, is because Tulāb Al-'Ilm must encompass the Masā'il – the matters of Fiqh. That's enough reason to study this. Even though you may not apply this in this day and age, you still need to learn it. But this *does* apply in today's day and age, how? Like pouring water, 'Ulamā' who discussed water that's mixed with chlorine, and whether it's pure or not – this is a contemporary matter – they went back to this old Fiqh issue to come up with the ruling on water mixed with chlorine. They said chlorine is Tāhir, chlorine is used to clean the water, it may affect the features of water somewhat – like leaves and grass do, but in both cases that is still referred to as water. And that additional substance – leaves, grass, chlorine – is pure. And it's difficult to avoid it or separate it from the water. So they said that water is pure, and it can be used for Wudū' and Ghusl. Unlike the first category, when the tea mixed with the water – it's no longer referred to as water, it's called tea. Coffee with the water is no longer water, it's called coffee. That's the second type of water.

The third type of water is the impure water:

الماء النجس

And this could be a great amount, and that great amount could mix with impurity. If a great amount of water mixed with impurity (with Najāsah), and it changed one of the qualities of that water – the color, taste, or smell – then that entire water is impure (Najis), and you cannot use it. The same applies when it's a small amount of water, and the impurity changes one of the features or qualities of the water, that entire water becomes Najis. Ibn Al-Mundhir (رحمه الله تعالى) said, scholars unanimously by consensus (by 'Ijmā') agree that if something impure falls into a small or great amount of water, and that impurity (Najāsah) changes the water's taste or color or smell, then it's Najis (impure). And it cannot be used for Wudū' or ghusl.

Now there are some issues that are disputed here, what are they? You need to understand the Mas'alah first. The Mas'alah is, when there's a small amount of water (الماء القليل), and it mixes with Najāsah (impure water), but it doesn't change the qualities of the water, does that make it impure? The 'Ulamā' here differ on this matter, and they also differ on what constitutes a small amount of water.

The Hanafiyyah said, a body of water that's less than ten by ten cubits and a hand scope deep, is considered a small amount of water, and any amount of Najāsah that enters that makes that entire water all Najis and you can't use it for Wudū' or Ghusl. Ash-Shāfi'yyah and Hanābilah said, a small body of water is Qulatayn (قلتين), which is approximately 227 kilograms of water. So, impurity entering to what's Qulatayn or less makes that entire water impure. Mālikiyyah – the third opinion – said, there's no specific limit for small or large quantity of water, that's not how we go by it. We go by if any of the features of the water change. Each of the opinions has their proof and rationale and rebuttals – and that's taken in a more advanced Fiqh class. But the selected opinion, which we refer to in Fiqh terms as Ar-Rājih (الراجح) – is the Madhhab of Mālikiyyah, and it appears to be what Ibn Taymiyyah (رحمه الله تعالى) was leaning towards, and it's what his student Ibn Al-Qayyim selected, and it's one of two opinions chosen by Imām Ahmad. It's the opinion that water is not considered impure, unless its qualities are changed by that impurity, regardless of whether the water is small, or great in its amount. And their proof on that is the Hadīth that is authenticated by Imām Ahmad, that the Messenger (صلى الله عليه و سلم) was asked by Abū Sa'īd Al-

Khudri (رضي الله تعالى عنه), about doing Wudū' from a well in Medina that's called B'ir Budā'ah (بئر بُضَاعَة). And it's a well where they threw the trash in – in fact the Hadīth specified that they would even throw the flesh of dogs in it. They asked the Messenger (صلى الله عليه و سلم), 'Can we do Wudū' from that well?' And he (صلى الله عليه و سلم) said:

أَلْمَاءُ طَهُورٌ لَا يُنَجِّسُهُ شَيْءٌ

Water is means of purification; nothing makes it impure.

According to the Mālikiyyah, and what seems to be the opinion of Ibn Taymiyyah and Ibn Al-Qayyim, and one of the opinions by Imām Ahmad, is that water being great or small has no effect. What matters is if the Najāsah changes the features or qualities of the water, which is the **color, taste, or smell**.

The next Mas'alah Fuqahā' discussed is the vase used in the Wudū'. We use faucets now, but it's a matter mentioned under this topic, and like I reiterate we're Talabit 'Ilm, we must encompass the Masā'il the 'Ulamā' discussed. The issue of using gold and silver articles for purification, is that permissible? And if someone does use that, is their Wudū' valid? The majority of the Fuqahā' which is the four Madhāhib which is Mālikiyyah, Shāfi'yyah, Hanafiyyah, and Hanābilah, they say one cannot use a vase of gold or silver, for Wudū' just like he can't use it for eating and drinking because of the Hadīth that's in Al-Bukhāri and Muslim,

لا تلبسوا الحرير ولا الديباج، ولا تشربوا في آنية الذهب والفضة، ولا تأكلوا في صحافهما؛

فإنها لهم في الدنيا

"Do not wear silk or brocade, do not drink from gold and silver vessels, and do not eat from gold and silver dishes, for others have them in this world..."

Don't drink in vessels of gold and silver, don't eat in dishes of gold and silver, because it's for the disbelievers in this dunyā. The Messenger (صلى الله عليه و سلم) specifically mentioned eating and drinking in gold and silver vessels and plates. But the 'Ulamā' said, that was because it was the majority of the usage of those articles during that time. But it's not limited to only that. He (صلى الله عليه و سلم) mentioned what was

common and popular. However, using them for Wudū' and other purposes has the same ruling. In fact, Ibn Hajar related that Al-Qurtubi (رحمهم الله تعالى جميعاً) said: That just like the Messenger (صلى الله عليه و سلم) deterred from using vessels for eating and drinking, using them for similar means is also prohibited. And that applies today to those who have – for example – faucets of real gold or silver, or they have certain decorations in their house of gold and silver, some have even gone to the extent of using gold on their toilets. So it's Harām according to the vast majority of the Imāms and four Madhāhib. And we know the rationale behind that.

The question now is, is someone who used it, is his Wudū' valid or not? The four Madhāhib also indicated that he gets sinned for using those articles of gold and silver for Wudū', but his Wudū' is also accepted. In fact, An-Nawawi, and Ibn Hubayrah, and others said there was an 'Ijmā' (consensus) that the Wudū' is accepted. Why?

Because from the conditions of Wudū' is that you need pure water, if your water is not pure, the Wudū' is invalid. But the vase used in Wudū' is not a condition of Wudū'. So that means he gets sinned for violating a separate Hadīth deterring from that, but that has nothing to do with the validity of the Wudū'. Now let's go back to the author's statement:

* وَأَمَّا الْمُتَطَهَّرُ بِهِ .. فَالْمَاءُ الطَّهُّورُ .. أَوْ التُّرَابُ عِنْدَ عَدَمِهِ،

The substance used for purification, is water and soil when water is not available.

We're finished with water. Now we go to what he said that we can use soil in the absence of water,

أَوْ ضَرَرَ فِي اسْتِعْمَالِهِ.

Or if it will cause one harm and injury. The soil is used in the absence of purifying water, or if water causes harm to that individual. So this is talking about Tayyamum. And I want to talk a little a bit and go over Tayyamum, because it's something that's widespread and needed. Tayyamum is not limited to being stranded in some desert with no water. The author said:

أَوْ ضَرَرٍ فِي اسْتِعْمَالِهِ.

Meaning for illness or harm. You can resort to Tayyamum when there's illness and harm. Tayyamum is extremely common and widespread, and its teachings are desperately needed. One needs it for himself, or his family, or for his community and surroundings, may Allah (سبحانه و تعالى) keep you safe and healthy. Covid, the mercy of Allah (سبحانه و تعالى) upon the believers, and the plague and punishment upon the disbelievers - may Allah (سبحانه و تعالى) occupy them even more with it – it outlined the importance of matters like this. You never know when you will need Fiqh matters like this. People began to ask, pertaining to Tayyamum, when Covid first began. They have sinks in their hospital rooms, or in their houses, and it's a few feet away. Can they do Tayyamum? Because the water is there. People were asking what level of illness allows us to do Tayyamum? What if we don't have soil around us, how do we do Tayyamum? An amateur in studying 'Ilm would ask, why would we even study matters that are not practical?

That's wrong because Tayyamum is practical, and it's needed. And a Faqīh to be, 'Inshā'Allah, must encompass all Fiqh Masā'il, all the various Fiqh Masā'il, he must go over. And let's assume some Masā'il are not needed. This knowledge, with the proper intention, is a 'Ibādah, so you get 'Ajr for it. But there's many other benefits to it. It opens your mind into understanding how the 'Ulamā' of the Salaf used to think. And then, an issue you assume, or you think, is never needed in this day and age, may turn out to be a foundation for another totally different contemporary issue when Qiyās (analogical deduction) is used. Just like an example, how an old issue, of the leaves and grass growing in the water, was used pertaining to a contemporary issue of chlorine in water. So the author said, soil can be used in two conditions. The absence of water, or when it will cause someone harm or injury.

Now let's go over some main issues pertaining to Tayyamum. Tayyamum first of all, is referred to as the act of dry ritual purification (dry ablution). It's using soil in replacement of that actual ritual of Wudū' and Ghusl. And Allah (سبحانه و تعالى) mentioned it in the Qur'ān. In Surat Al-Mā'idah, Verse 6:

فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا فَامْسَحُوا بِوُجُوهِكُمْ وَأَيْدِيكُمْ مِنْهُ

When you can't find water, perform Tawayyumu with the clean earth by rubbing your face and your hands.

That's from the Qur'ān. From the Sunnah, in Sahīh Muslim – there's many Ahādith – but there's a Hadīth in Sahīh Muslim:

فُضِّلْنَا عَلَى النَّاسِ بِثَلَاثٍ جُعِلَتْ صُفُوفُنَا كَصُفُوفِ الْمَلَائِكَةِ وَجُعِلَتْ لَنَا الْأَرْضُ كُلُّهَا مَسْجِدًا وَجُعِلَتْ تَرَبَّتُهَا لَنَا طَهُورًا إِذَا لَمْ نَجِدِ الْمَاءَ

"We have been made superior to mankind in three respects: our ranks are formed like those of the angels; all the earth has been appointed as a mosque for us; and our earth has been appointed for us as a means of cleansing when we do not find water."

We've been made to excel over people in three matters, and one of them that pertains to us is that the dust of this earth has been made a purifier for us in cases that we don't have water. There's many other Ahādith with similar wording, [and] different meanings pertaining to Tawayyumu. And how Tawayyumu was first legislated was actually pretty interesting.

The Messenger (صلى الله عليه وسلم) was on a journey with some of his Sahābah and his wife 'Āishah (رضي الله عنها). They reached an area called Al-Baydā', and that's when a necklace of 'Āishah (رضي الله عنها) broke and got lost. The Messenger (صلى الله عليه وسلم) and the Sahābah stayed back to look for the necklace, and that area Al-Baydā' is an area with no water. And they had no water along with them. They were running out water. So the Sahābah (رضي الله عنهم) began to blame Abu Bakr, they went to Abu Bakr – they're not going to 'Āishah (رضي الله عنهم أجمعين). They went to Abu Bakr to blame him for the loss of the necklace and the delay, and he in turn admonished 'Āishah (رضي الله عنها) for that. The following morning the Messenger (صلى الله عليه وسلم) woke up and there was no water. They needed a solution, so Allah (سبحانه وتعالى) revealed the verse pertaining to Tawayyumu. Then they found the necklace under the camel 'Āishah was riding on. 'Usayd Ibn Al-Hudayl said:

مَا هِيَ بِأَوَّلِ بَرَكَتِكُمْ يَا آلَ أَبِي بَكْرٍ

'Usayd said to Abu Bakr, *'It's not the first blessing of yours O family of Abu Bakr.'* It seemed like a delay and a problem, but it ended up with a great blessing. **Bringing ease to this 'Ummah.** How? In establishing Tayyamum until Yawm Al-Qiyāmah. You also get from the Hadīth, a side issue that has nothing to do with what we're talking about here, which is the permissibility of telling someone, this is from your blessing.

'Usayd told Abu Bakr As-Siddique (رضي الله عنه) *'It's not your first blessing, O family of Abu Bakr.'* So if someone does good to you, and you say this is from your blessing, in the narrow sense, that terminology is accepted because 'Usayd told that to Abu Bakr As-Siddique (رضي الله عنه).

There's Masā'il or issues discussed under Tayyamum, and among them is, what type of illness gives one the right to do Tayyamum? What level of illness must one have in order to do Tayyamum? There are three levels of illnesses from a Fiqh perspective – in this context. Two of them are not disputed, and one of them has a dispute in it. The first one is, a level of illness that is extreme. Extreme to where one fears death, or the loss of a limb, or a that a limb, or a hand, or a body part may be severed if he uses water. Or that he will lose the functioning ability of any body part if he uses water. He may lose, for example, his eyesight, or his hearing, or his speaking, or the loss of his hand with an infection if he uses water. Matters like that or similar to that – there is 'Ijmā' (consensus) among the Fuqahā' that a person can do Tayyamum. And the proof on that is the verse:

وَإِنْ كُنْتُمْ مَرْضَىٰ

And if you are ill... 4:43

[This verse] specifies an illness. And there's no clear illness worthy of Tayyamum than this. Then there's additional support, which is not really needed, but the 'Ulamā' mention it, and among that is verses that deter one from harming himself, or verses that mention making difficult matters easy. Like:

وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ

And do not throw yourselves into destruction 2:195

Another one in Surat Al-Hajj:

وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ

And has not laid upon you in religion any hardship 22:78

In Surat An-Nisā':

وَلَا تَقْتُلُوا أَنْفُسَكُمْ

And do not kill yourselves 4:29

مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُمْ مِنْ حَرَجٍ

Allah does not want to place you in difficulty 5:6

And there's Ahādith and 'Athār and other rationales that back this matter up, but they're not really needed because it's extremely clear that Tayyamum is permissible for one who's ill in such a severe illness like this.

The second type of illness is a small minor illness, where one doesn't fear the loss of a limb, or loss of its ability to function if he uses water, it's illness where the usage of water doesn't slow the cure – nor does it make it worse. Example like that would be a simple toothache, a headache, a fever, a slight discomfort from the cold water that will not harm him. This is the opposite of the first and the ruling is exactly the opposite of the first. It's by 'Ijmā' this person cannot do Tayyamum, just like in the first it was 'Ijmā' that he can – and the proof is the verse.

وَإِنْ كُنْتُمْ مَرْضَىٰ

Allah said you can use Tayyamum if you're ill, and this person is not really harmed by the water. He's not ill enough to divert from water to Tayyamum. It's not needed or necessary in his situation. Then they also use a detailed proof pertaining to fever from the Hadīth that's in Sahīh Bukhāri and Muslim,

الْحُمَّى مِنْ فَيْحِ جَهَنَّمَ فَأَبْرِدُوهَا بِالْمَاءِ

Fever is from the heat of Jahanam (Hellfire), so cool it with water.

What they're trying to say is that the Messenger (صلى الله عليه وسلم) said, use water for fever. So how can you end up not using water by saying 'ok we'll divert to Tayyamum' when the Messenger (صلى الله عليه وسلم) is saying use water for fever?

They also said Tayyamum is for necessities, and there is no necessity at this level of illness. What they're basically saying is, Allah permitted one to do Tayyamum if he's ill, and they said this is not a sufficient illness for one to do Tayyamum.

The third type of illness is in between the two that we already took. And this one is disputed among 'Ulamā'. This is when one fears water will most likely delay his recovery from an illness or increase the injury or illness. Or it may – for example – cause one's appearance to be defaced, like getting a rash or something of that nature. The 'Ulamā' are divided into two opinions pertaining to this matter, the first opinion is the opinion of the Hanafiyyah and the Mālikiyyah, and the correct opinion in the Shāfi'i Madhhab – and one of two opinions in the Hanbali Madhhab.

They said an illness in which water is most likely to cause harm, as in this scenario, it may increase the illness or prolong the recovery, they said this is encompassed in the terms of the verse:

وَإِنْ كُنْتُمْ مَرْضَىٰ

This constitutes one being ill. And he can use Tayyamum. The second opinion is that one cannot do Tayyamum in such conditions stated here. According to them, the

only Tayyamum one can do is in the first one, where it's a matter of life and death, where a limb may be severed due to one using water. And this is one of the opinions, we said the Shāfi'īyyah had two opinions, this is one of them, and this is one of two opinions within the Hanbali Madhhab. Meaning the Hanbali Madhhab has two opinions on this, and the Shāfi'īyyah have two opinions on this. They said this illness here is like the previous illness, of a headache. And unless one fears the loss of his life or something close to that, or a limb, then he cannot do Tayyamum. The reason for the dispute is the scholars dispute what level of fear permits one to do Tayyamum. And the correct opinion is the permissibility to do Tayyamum if using water will prolong the illness or make it worse or more painful. The standard is not death or loss of limbs. If it prolongs it or makes it worse that's sufficient for one to do Tayyamum. And the verses on that, which are general verses that Allah (سبحانه و تعالى) wants to make things easier and not to harm oneself,

هُوَ اجْتَبَاكُمْ وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ

He has chosen you, and has not laid upon you in religion any hardship... 22:78

وَلَا تَقْتُلُوا أَنْفُسَكُمْ

And do not kill yourselves 4:29

مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُمْ مِنْ حَرَجٍ

Allah does not want to place you in difficulty 5:6

It's pretty clear on that.

Another Mas'alah, if one is in the hospital or in their own house, and the bathroom is a few feet away – or the sink is a few feet away – or the water is a few feet away, but the person is unable to reach it due to his health condition. And no one is there to help him, is that proper cause for Tayyamum? He or she can do Tayyamum by 'Ijmā' (consensus) of the 'Ulamā', and the 'Ijmā' has been related in many reference books of Fiqh on various Madhāhib like:

- *Al-Mabsūt and*
- *Badā'i Al-Sanā'i and*
- *Al-Bahr Ar-Rā'iq and*
- *Al-Ma'ūna 'Alā Madhhab 'Ālim Al-Madinah and*
- *At-Tahdhīb and*
- *Al-Furū'*

And other references. The first on that is clear,

فَلَمْ تَجِدُوا مَاءً فَتَيَمَّمُوا صَعِيدًا طَيِّبًا فَامْسَحُوا بِوُجُوهِكُمْ وَأَيْدِيكُمْ

When you can't find water, perform Tayyamum.

And they said, yes, this person has water a few feet away – but one who can't reach the water due to his health and illness, is given the same ruling as one who doesn't have water. From a Hukm perspective, it's as if that person doesn't have the water, so he can do Tayyamum.

In Al-Mughni, which is a reference book on the Hanbali Madhhab as we mentioned, and At-Talqīh Fī Fiqh Al-Mālikī, which is a summarized book on the Fiqh of Imām Mālik, they said in such a situation where one can't get up to make Wudū' when the water is right near him, and can't get help to get to the water or bring the water to him, he is like somebody at the edge of a well. And that person at the edge of the well has no buckets or containers to get the water from the well. And he has no way of getting down to get the water. The same applies to one who is unable to walk a few feet to get the water near him. They said he's also like one who can't reach water near him, due to a dangerous circumstance – like a wild predator, or an enemy that might attack him if he goes to the water or the well, or harm may touch him if he goes near the water, they said he or she is in that same situation and setting. I believe that's clear.

Another Mas'alah pertaining to Tayyamum. Who makes the decision pertaining to the level of illness? If there's a Muslim, credible, trustworthy doctor – who tells that ill person that his illness will increase – or there will be a delay in the cure if he uses water, then that's sufficient – he can go by that. But what if there's no medical doctor around,

or credible physician to give this type of judgement? Can the ill person judge his own condition by what's most likely and most probable to happen, based on his own discretion?

Hanafiyyah, Mālikīyyah, Hanābilah, and some Shāfi'īyyah say yes. The second opinion is by some Shāfi'īyyah that say no, he can't judge his own condition and his own status. And the first opinion is correct because it coincides with the overall principles of the Sharī'ah that doesn't want someone to cause himself possible harm in such situations, in fact Abū Yahyā Zakariyyā Ibn Muhammad Al-Ansārī Al-Khazraji, who is a very well-known student of Ibn Hajar Al-'Asqalāni, he said it doesn't coincide with the principles of our Sharī'ah (that the Sharī'ah came with) to deprive one of making such a decision for himself.

There are some issues on Tayyamum, but I think we're running out of time so let's stop over here – and not only because we're running out of time but let this sink in. Review it. Go over it again, and again, and if anything is not clear let me know. So I can address this before we move on. And that's why we'll move at a slow pace in the beginning, so we can get our minds to adopt to the study of Fiqh and how 'Ulamā' addressed Fiqh issues. Then we'll move at a faster level, otherwise we really can sit here for an hour and a half or two hours. But I don't believe, in the beginning stage, when one is still analyzing how Fuqahā' differed, and how they divided it – the first opinion, second opinion, the proofs, and how there could be matters within the same Madhhab have two opinions on the same matter. So if you review it over and over, and if there's any issues you need to ask about it [do so], we will try our best bi'thniAllahi ta'lā to address it, Jazākum Allāhu Khair,

و صلى الله على سيدنا محمد و على آله و صحبه و سلم